Please enter the following amendments and remarks:

STATUS OF THE CLAIMS

Claims 1-88 are pending in the Application.

Claims 1-88 have been rejected by the Examiner.

Claims 1, 12, 14, 20-21, 24-25, 36, 38, 39, 45, 47, 49, 51, 53, 65, 67, 70, 79, and 88 have been amended.

Claims 10, 11, 23, 32, 35, 37, and 41 have been canceled.

Claims 89-91 have been added. Support for these claims can be found in at least paragraphs 65 and 67 of the specification.

Reconsideration of the present Application is respectfully requested.

REMARKS

The drawings have been objected to because they include a reference character not mentioned in the specification. Claims 1-19 and 24-37 have been rejected under 35 U.S.C. §112. Claims 1-2, 9-10, 14-21, 23-27, 29-53, 55-58, 62-63, 65-68, and 71-88 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,421, 650 ("Goetz"). Claims 3-8, 22 and 28 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Goetz in view of U.S. Patent No. 5,737,539 ("Edelson"). Claims 11-13 and 59-60 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Goetz in view of U.S. Patent No. 5,797,515 ("Liff"). Claims 54, 64, 69 and 70 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Goetz in view of U.S. Publication No. 2002/0055856 ("Adams"). Claim 61 has been rejected

under 35 U.S.C. §103(a) as being unpatentable over Goetz in view of Liff and Adams. Applicant respectfully traverses these rejections for at least the following reasons.

Drawings

The drawings have been objected to for failing to comply with 37 C.F.R. § 1.84(p)(5) because they include a reference character not mentioned in the description. The Examiner is requiring an amendment to the specification to add the reference character in the description. Accordingly, Applicant requests that paragraph 0060 of the specification be deleted and replaced with the following:

As illustrated in Figure 13, each representation 1302, 1304, 1306, 1308, 1310, 1312, 1314, 1316, 1318, 1320 corresponds to a reason for overriding the drug use evaluation alert includes a radio button or check box "□", which, at a step [[212]] 214, the prescriber may select to enter via the electronic prescription device 102 a reason for overriding the drug use evaluation alert. In alternative embodiments, the prescriber may enter the reason for override of the drug use evaluation alert by keying a reason via a keyboard, selecting an icon, a link, an item from a pull down menu, an icon on another display, or by any other interface by which the prescriber can enter an indication of the reason for overriding the drug use evaluation alert.

35 U.S.C. § 112

Claims 1-19 and 24-37 have been rejected under 35 U.S.C. § 112 "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." More particularly, the present Office Action states that "claims 1-19 and 24-37 recite the limitations for which there is no antecedent basis in the claims." Claims 1, 24, 25, and

36 have been amended herein. Claim 35 has been canceled. As set forth in the present Office Action, claims 2-11, 13-14, 16-19, 26, 28, 30-32, 34, and 37 have been rejected because each "incorporate[s] the deficiencies of claims 1, 25, and 36, through dependency." Because the rejections of claims 1, 25, and 36 have been remedied, Applicant respectfully submits that the rejections of claims 2-11, 13-14, 16-19, 26, 28, 30-32, 34, and 37 have similarly been remedied. Claim 24 has been amended to overcome the instant rejection. Further, the rejections as to claims 12, 15, 27, 29, and 33 have been remedied in light of the aforementioned amendments. Therefore, Applicant requests reconsideration and removal of these rejections.

35 U.S.C. § 102

Claims 1-2, 9-10, 14-21, 23-27, 29-53, 55-58, 62-63, 65-68, and 71-88 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,421,650 ("Goetz"). Applicant respectfully traverses this rejection for at least the following reasons.

Anticipation under 35 U.S.C. §102 requires the cited art teach every aspect of the claimed invention. *See, M.P.E.P. §706.02(a).* In other words, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *See, M.P.E.P. §2131 citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

A. Independent claims 1, 25, 38, 45, and 47

Independent claims 1, 25, 38, 45, and 47 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Goetz. Applicant respectfully traverses these rejections for at least the following reasons.

Amended claim 1 recites:

A method comprising:

entering via an electronic prescription creation device a prescription for a drug;

viewing a drug use evaluation alert on a graphical user interface of the electronic prescription creation device;

viewing on the graphical user interface a query of whether a user desires to override the drug use evaluation alert;

entering via the electronic prescription creation device an override of the drug use evaluation alert;

transmitting the prescription and override over a network to a prescription processor;

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation, and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription.

Amended claim 1 recites transmission of the prescription and override over a network to a prescription processor. Support for amended claim 1 may be found in paragraph 61 of the specification which states that "the prescription will be transmitted over the network 130 to the pharmacy workstation 104 of the pharmacy 122." *See also* paragraph 27 of the specification. Amended claim 1 further requires that the prescription processor actuate a second drug use evaluation and if the resultant drug use evaluation alert corresponds to the override of the user, then the prescription is processed. Support for this amendment can be found in the specification at paragraph 69 which states that "the pharmacy need not telephone the prescriber to confirm that the prescriber is aware of the drug use evaluation alert obtained from the *pharmacy's drug use evaluation*." Claims 25, 38, 45, and 47 have also been amended in a similar fashion to claim 1.

As may be seen in the specification, and as claimed in amended claim 1, the present invention allows a prescriber, such as a physician, to enter a prescription, including an override of a drug use evaluation alert, and transmit the prescription and accompanying override over a network to a prescription processor. Goetz, however, does not teach a method or system that allows communication between a prescriber and a prescription processor. Rather, Goetz teaches a medication management system that requires a patient component, physician component, and a pharmacist component. *See* abstract; column 4, lines 22-24. The patient component is linked to the physician's component and the pharmacist's component. *See* column 8, lines 59-62. The physician can enter a prescription for a patient by using the physician's component. *See* column 10, lines 48-50. The prescription is then downloaded to the patient component. *See* column 11, lines 35-38. "The patient then takes the patient component to the pharmacist who then transfers the patient data from the patient component 104 to the pharmacist's PC component for execution of the prescription." Column 11, lines 40-43. Thus, unlike Applicant's invention, Goetz fails to provide a means for communicating the prescription and override of a drug use evaluation alert over a network between a prescriber and a prescription processor. Furthermore, Goetz requires a patient component while Applicant's invention does not contemplate use of a patient component.

In addition, Goetz fails to teach that the prescription processor utilizes the override from the prescriber. While Goetz teaches that a pharmacist can perform a check for potential interactions and cautions concerning a particular prescription (*see* column 12, lines 1-3), Goetz fails to teach that the pharmacist compares any alerts it receives with any overrides from the physician. One problem addressed by Applicant's invention is to "simplify the processes of confirming a prescriber's knowledge of drug use evaluation alerts and obtaining a prescriber's reason why a drug is to be dispensed as written." *See* paragraph 9. Therefore, if the pharmacist

is not notified of the prescriber's override or does not utilize such information, then the pharmacist will still need to contact the prescriber before dispensing the prescription. It is at least this problem that Applicant's invention was designed to solve.

Because Goetz fails to teach each and every element of Applicant's invention, Applicant respectfully submits that Goetz does not anticipate Applicant's invention. Applicant respectfully traverses the 35 U.S.C. § 102 (e) rejection with respect to Claim 1 for at least the foregoing reasons. Applicant respectfully submits that Claim 1 is patentably distinguishable over the prior art of record.

Similarly, Applicant respectfully submits that Claims 25, 38, 45, and 47 are not anticipated by the prior art cited for at least the reasons set forth herein with respect to Claim 1.

Applicant respectfully submits that Claims 2, 9, 14-19, 26-27, 29-31, 33-34, 39-40, 42-44, 46 and 48 similarly overcome the prior art, at least because of these Claims' ultimate dependence on patentably distinguishable base Claims 1, 25, 38, 45, and 47.

B. Independent Claims 20 and 36

Independent claims 20 and 36 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Goetz. Applicant respectfully traverses these rejections for at least the following reasons.

Amended claim 20 reads as follows:

A method comprising:

entering via an electronic prescription creation device configured to create prescriptions a prescription for a drug;

viewing a drug use evaluation alert on a graphical user interface of the electronic prescription creation device;

entering via the electronic prescription creation device a reason for overriding the drug use evaluation alert; and

transmitting the prescription and a reason for overriding the drug use evaluation alert over a network to a prescription processor;

wherein the prescription processor, upon receipt of the prescription, attempts to process the prescription and actuates a second drug use evaluation; and if a resultant drug use evaluation alert is correspondent to said override of the user, the prescription processor processes the prescription.

Amended claim 20 recites that the prescription and the reason for overriding the drug evaluation alert be transmitted over a network to a prescription processor. Support for this amendment can be found in at least paragraphs 61 and 69 of the specification. Claim 36 was amended similarly to claim 20.

Goetz fails to teach that a reason for an override can be entered using a prescription creation device and transmitted to a prescription processor. For the reasons discussed hereinabove, with respect to claim 1, Goetz merely suggests that a physician may override an interaction in instances when substitute drugs are not available or would cause more severe interactions.

Thus, Applicant respectfully submits that claims 20 and 36 are not anticipated by Goetz. Similarly, claims 21 and 24 overcome the prior art, at least because of their dependence on claim 20.

C. Independent Claim 49

Claim 49 has been rejected under 35 U.S.C. § 102(e) as being anticipated by Goetz. Applicant respectfully traverses these rejections for at least the following reasons.

Amended claim 49 reads as follows:

Computer executable software code stored on a computer readable medium of an electronic prescription creation device comprising the code for generating a graphical user interface, wherein the graphical user interface comprises:

at least one representation querying whether a user desires to override a drug use evaluation alert; and

at least one representation allowing the user to transmit the override over a network.

Claim 49 requires a means for transmission of an override over a network. As previously discussed, Goetz does not teach nor provide such a means. Therefore, Applicant respectfully submits that claim 49 is patentable over the prior art. Accordingly, Applicant submits that claim 50 is also patentable over the prior art, at least because of its dependence on claim 49.

D. Independent Claims 51, 65, 71, 79, 84, 86, and 88

Independent claims 51, 65, 71, 79, 84, 86 and 88 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Goetz. All of the aforementioned claims relate to dispensing a drug "as written." Reference to Applicant's disclosure demonstrates that Applicant's use of the term "as written" refers to the dispensing of brand name drugs versus generic drugs. At paragraph 46 of Applicant's disclosure, Applicant states that "when a prescriber instructs that a drug is to be dispensed as written, the prescriber is providing instructions to the pharmacy 122 that fills the prescription not to substitute a generic drug for the brand-name drug prescribed in the prescription." Paragraph 47 of Applicant's disclosure further states that "if the prescriber 112 does not check the radio button or check box of the dispense as written query 1030 the

pharmacy 112 receiving the completed prescription will presume that it can substitute a generic drug for any prescribed brand-name drug."

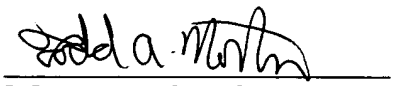
Goetz, however, does not teach or even discuss whether a generic drug can be substituted for a brand name drug when dispensing a patient's prescription. The Office Action cites to various sections of Goetz which purport to relate to the dispensing of a drug "as written," however, reliance on Goetz is misplaced. Specifically, the Office Action cites to column 11, lines 29-39 of Goetz. This section of Goetz describes the procedure by which a physician enters a prescription and "the processor queries a database resident in the physician component 102 for cautions and interactions." It is evident from this disclosure that Goetz is referring to interactions that may result from a new prescription. Goetz does not address the issue of brand versus generic drugs. The Office Action cites to column 12, lines 12-21 which is directed to "interaction potential between two drugs." Column 12, lines 14-16. Finally, the Office Action cites to column 16, lines 42-47 which is likewise directed to drug interactions and in no way teaches or describes the use of an "as written" feature related to the dispensing of prescriptions.

Goetz fails to set forth an element of independent claims 51, 65, 71, 79, 84, 86 and 88; therefore Applicant submits that a rejection under 102(e) is improper. Wherefore, claims 52-53, 55-58, 62-63, 66-68, 72-78, 80-83, 85 and 87 similarly overcome the prior art, at least because of their ultimate dependence on patentably distinguishable base claims 51, 65, 71, 79, 84, 86 and 88.

Conclusion

In light of the forgoing amendments and remarks, Applicant respectfully submits that the pending claims are in condition for allowance.

Respectfully Submitted,



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